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MEMORANDUM ENDORSEMENT

Ann Pearlina Brown v. Siwanoy Country Club, Inc.

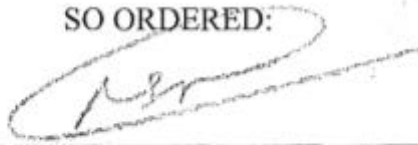
7:23-cv-06399-NSR

The Court is in receipt of Defendant's letter dated November 19, 2024 (ECF No. 29) (attached hereto).

The Court waives the pre-motion conference and sets the following briefing schedule: Defendant's moving papers are to be served (not filed) on January 4, 2025; Plaintiff's opposing papers are to be served (not filed) on or before February 3, 2025; Defendant is to serve their reply on February 18, 2025. All motion papers are to be filed on the reply date, February 18, 2025. The parties are directed to mail two copies of their motion documents to Chambers as they are served, as well as to send a copy to Chambers via email as they are served. The Clerk of Court is kindly directed to terminate the motion at ECF No. 29.

Dated: November 20, 2024
White Plains, NY

SO ORDERED:



NELSON S. ROMÁN
United States District Judge



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November 19, 2024

VIA ECF

The Honorable Nelson S. Román
United States District Judge
U.S. District Court for the Southern District of New York
Federal Building and United States Courthouse
300 Quarropas St., Courtroom 218
White Plains, NY 10601

Re: Ann Pearlina Brown v. Siwanoy Country Club, Inc.
Case No.: 7:23-cv-06399 (NSR)

Dear Judge Román:

We represent the Defendant Siwanoy Country Club, Inc. (“Siwanoy” or “the Club”) in the above matter. This letter is submitted jointly by Defendant and Plaintiff to respectfully request the Court approve a schedule for Defendant’s anticipated motion to dismiss Plaintiff’s Second Amended Complaint.

By Opinion & Order issued on October 21, 2024 (“Order”), Your Honor granted Defendant’s motion to dismiss Plaintiff’s First Amended Complaint. (Dkt. No. 27.) In the First Amended Complaint, Plaintiff claimed she worked at Defendant in 2020 and she asserted claims for alleged unpaid minimum wages and overtime under the Fair Labor Standards Act (“FLSA”) and New York Labor Law (“NYLL”). Defendant argued in its motion, among other things, that Plaintiff’s FLSA claims are untimely because Plaintiff claims to have worked at the club more than two years prior to filing the initial Complaint in this matter and she failed to sufficiently allege facts supporting willfulness under the FLSA entitling her to a three-year limitations period under the law. The Court agreed, dismissing Plaintiff’s FLSA claims as time-barred, and declining to exercise supplemental jurisdiction over Plaintiff’s NYLL claims. The Court, however, provided that dismissal would be without prejudice, granting Plaintiff leave to file a Second Amended Complaint by November 27, 2024. (Dkt. No. 27, at 9.) Defendant was directed to thereafter answer or otherwise respond by December 23, 2024. (Id.)


Plaintiff filed a Second Amended Complaint on November 4, 2024, adding certain factual allegations not contained in the First Amended Complaint. (Dkt. No. 28.) Even with the additional allegations, Defendant continues to believe the facts alleged in the Second Amended Complaint are not sufficient to plausibly state a timely claim under the FLSA. Defendant also maintains the additional alternative grounds for dismissal continue to apply as well.

The Parties have conferred regarding Defendant's intention to file another motion to dismiss directed towards the Second Amended Complaint. To avoid possible delay and costs under the circumstances, given the Parties know their respective positions on the issues, subject to Your Honor's approval, the Parties respectfully propose the following briefing schedule for Defendant's motion to dismiss Plaintiff's Second Amended Complaint:

- (1) Defendant will serve its motion to dismiss on or before December 23, 2024,
- (2) Plaintiff will serve her opposition on or before January 24, 2024, and
- (3) Defendant will serve its reply on or before February 7, 2024. Defendant will then bundle file the fully-briefed motion.

We appreciate the Court's attention to this matter.

Respectfully submitted,



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JACKSON LEWIS P.C.

cc: Counsel for Plaintiff, (via ECF)